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ABSTRACT

Distinct questions come up concerning industrial seniority practices and higher education. (1) Would retrenchment by seniority--rank or institutional--destroy academic tenure as such and institute instead a new system? (2) Can "bumping" be used in academe? (3) Would seniority discourage academic transfers? (4) Would seniority effect disciplinary actions? (5) Concerning merit, would industrial seniority, as it would be applied to higher education, supercede exemptions for meritorious performance in the classroom or in a first-level administration position? That retrenchment will increasingly be used by college/university administrators to solve budgetary problems and to maximize institutional growth is an inevitable truth. Both administrators and faculty members must immediately become aware of the cataclysmic impact of retrenchment by seniority on higher education. (Author/KE)

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Collective Bargaining Perspectives

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CAN INDUSTRIAL SENIORITY BE USED FOR RETRENCHMENT IN HIGHER EDUCATION?

by

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INTRODUCTION

Collective bargaining negotiations in higher education, just as in industry, are a give-and-take process. And to gain monetary and professional benefits, faculty bargaining unions have had to give their counterparts in managements the right to retrench, a euphemism for firing faculty members. Such a clause in any collective bargaining agreement (hereafter CBA) potentially affects all faculty members at a campus having collective bargaining representation. This includes first-level administrators--those in non-policy making positions who are not considered management personnel but who have elected to have union representation--and non-union members, faculty members and first-level administrators who may elect not to belong to a union but very definitely are bound by what is contained in the CBA at their respective campus.

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Faculty union leaders and negotiators are usually happier if the retrenchment procedures are not spelled out--in other words, the more vague...the better. And this attitude on the part of unions is for two good reasons. First, the lack of explicit procedures in a CBA means that any steps created by management to implement retrenchment are not automatically considered to be part of the contracted agreement, thus may be stringently opposed by the union, and may not be upheld by arbitrator and/or the legal courts. Second, the lack of definite procedures for retrenchment make belonging to a union a means of job protection for more people.

One procedural word usually found in a retrenchment clause, however, is "seniority," the impartial means to implement retrenchment--when and if it should occur. The concept of using seniority as a basis for retrenchment in higher education, a practice taken from industrial unions, would create many serious effects for institutions, managements, faculties, faculty unions, and students. Therefore, the purpose of this exploratory essay is threefold:

1. To explain the shortcomings of using the industrial systems of seniority as a basis for academic retrenchment.
2. To comment on the problems seniority retrenchment would create for higher education management.
3. To introduce some of the adverse effects retrenchment by seniority would have on faculty unions in American colleges and universities.

THE SHORTCOMINGS OF INDUSTRIAL SENIORITY IN ACADEMIC RETRENCHMENT

Ironically, the vague retrenchment clauses which allude to seniority as the means for academic retrenchment have produced two camps within faculty unions. The first camp, composed understandably of faculty members with more seniority than their peers, feels that retrenchment would/will be done literally according to seniority--the last hired...the first fired. The second camp,

composed of faculty members with less seniority but greater academic rank, feels that seniority means seniority of rank, thereby calling for retrenchment to start at the bottom of the non-tenured ranks, to progress to the top, and then to repeat the process again up through the tenured faculty ranks. Looking at each of the aforementioned approaches, the problems that retrenchment by seniority could cause in higher education become evident.

To retrench only on the basis of "last hired...first fired" would eliminate many scholars who have more recently done research for their Ph.D's or Ed.D's. Also, it would eliminate younger teachers who may have completed their doctorates but who have fresh ideas and fresh teaching approaches, both definite assets which cause students to fill classrooms. Thus, retrenchment according to institutional seniority would deprive students of younger scholars and/or enthusiastic academic newcomers.

To retrench faculty members only on the basis of seniority in rank would create equal havoc. There are several reasons. First, many excellent teachers, like the enthusiastic young just cited, lack the doctorate or even any comparable amount of graduate study. And yet, these faculty members have stayed at their institutions because they felt a sense of dedication to the subject area, the department, the institution, the students, or the region--or all five. They are not academic slugs, despite their lack of credentials, and no one knows this better than the students who year after year are inspired by these academic mentors. Retrenching the senior members of a department because they are junior in rank will create problems.

In addition to the problems caused by using institutional seniority or rank seniority for retrenchment purposes, distinct questions come up concerning industrial seniority practices and higher education.

1. Would retrenchment by seniority--rank or institutional destroy academic tenure as such and institute instead a new system?

2. Can "bumping" be used in Academe?

3. Would seniority discourage academic transfers?

4. Would seniority affect disciplinary actions?

5. Concerning merit, would industrial seniority, as it would be applied to higher education, supercede exemptions for meritorious performance in the classroom or in a first-level administrative position?

6. Would seniority create academic gerrymandering?

WOULD UNION SENIORITY DESTROY TENURE?

While in most cases, faculty members who have tenure and a great deal of seniority might be protected by both, assuming retrenchment would hit their departments, all tenured faculty would not be protected. Faculty members with tenure, usually awarded for the satisfactory completion of between 3 and 7 years, would not be protected if cut-backs were needed in their specific departments. Tenure would be nullified. And assuming the act of retrenchment would either not be contested by faculty members because, vaguely stated or not, it would be part of the CBA--a contractual agreement between two parties--or because it would be contested, but the courts would uphold it as being legal, tenure would be superceded by a form of academic seniority, rank or institutional.

And assuming that were to happen, it would mean two significant things.

1. The great job security buttress for higher education, namely tenure, would be torn down, would not be a legal protection any longer.

2. Seniority would replace tenure, but more importantly, years of seniority would not determine whether faculty members had job security. Rather, security would depend on the accountability status of one's department. (Statistics noting the number of students in each class would be analyzed department by department and faculty member by faculty member.)

The second point is profoundly significant. To clarify it more, it means that a person could be an assistant professor with a M.S. in biology and eight years at the school, and because his college had a medical technology degree, the biology department would have a lot of students. On the other hand, his twin brother with an M.S. in physics and eight years seniority might be retrenched because his department had few physics majors and fewer class enrollments. Rank or years of service would mean nothing. Job security would be relative to the accountability figures of one's classes and/or of one's department.

Changing from a system of permenent academic tenure to a system of fluctuating accountability figures would be major, meaning different things to different members of higher education. To college/university managements, those administrators concerned with creating and implementing policies for the good of their respective schools, it would generally mean a management tool to be used in times of financial crises to cutback the faculty members and lower level administrators no longer needed, enabling the budgetary funds to be better utilized in areas where additional funds were needed and to be used to launch new programs that would result in institutional growth. To a large portion of faculty members, however, it would mean a threat, the threat of losing jobs or seeing their colleagues lose their's.

CAN "BUMPING" BE USED IN ACADEME?

"Bumping" is the practice accepted by industrial unions whereby one member of the work force who has more seniority at the industrial site or in his department--depending on the union--can take the job of another member of the work force who has less seniority, thereby initiating a chain reaction of "bumps" until it reaches the most recently hired person who finds himself "bumped" into unemployment. And while this act, like voluntary transfers which will be discussed

next, could result in a faculty member being stimulated by the new and challenging position of an unplanned-for position, the probability of this happening will be the exception and not the rule. There are several reasons.

"Bumping" is easier done in industry because the qualifications are generally less per position. However, in academe the requirements are usually two or all three of the following: a bachelors degree, a masters degree, a doctors degree. Usually, a person who teaches in a specific area, i.e.--mathematics, has several degrees in that area. But not always. Sometimes a faculty member has many undergraduate and graduate hours in several areas and may teach in a field for which he holds no formal degree. "Bumping" would have to work something like this except that the changes would be caused by an expediency to keep one's job and not a gradual interest in changing to another field. And like a secondary education teacher, it would seem logical that since a faculty member spent more time earning hours in his first teaching area than his second, he would be more competent in his major interest rather than his minor area. And if he "bumped" a person to enter a new department, the person who would be affected by this "bump"--in other words...the department member with the least seniority--would in all probability be more competent than the newcomer. In addition, assuming the "bumping" necessitated that the lowest person in seniority be retrenched, a department might lose a valuable member on the campus curriculum committee or an experienced debate coach.

Using the seniority system for academic "bumping" would not only affect those who were "bumped", but it would also affect those who feared they might be "bumped," once again wasting valuable energy which should be devoted to enriching teaching and helping the institution grow.

WOULD SENIORITY DISCOURAGE ACADEMIC TRANSFERS?

In industry, transfers refer to a move from one company site to another, providing management a way to utilize talent and not fire company personnel. Since higher education is not one or several large companies, the term "inter-school" transfer merely means moving, but with the use of "intra-school" transfer, the school management could suggest a move or the individual could request a move.

Transfers should be differentiated from "bumpings" because they are voluntary and not intended to start a chain reaction. There are two types of transfers:

1. inter-school
2. intra-school

Inter-school transfers--the word transfer is used loosely--would pertain to moving from one college or university to another, from a private school to a public one, from an institution in one state to one in another state. And certainly the idea of transferring could include a faculty member's efforts to secure additional academic courses before changing schools.

Before the glutted college teaching market academicians did change schools a lot, broadening their educational backgrounds with every move. Now, however, faculty members at an institution with collective bargaining representation are likely to preserve their seniority and tenure. If they do not have tenure, they are likely to preserve their time in grade towards permanent tenure.

Concerning intra-school transfers, on campuses where seniority is definitely mentioned in the retrenchment clause of the CBA, departmental members are not likely to welcome colleagues from other departments--even if the candidate has less seniority than the majority of the members. Fear of an extra person competing for students might prompt such an attitude. Also, the departmental members would prefer to protect one another.

Both reactions to transfers, based primarily on a concern for job security and increasing institutional seniority, are negative reactions, causing a stagnation of departments and schools. The influx of new faculty members would bring new ideas to solve problems. Unfortunately this process would be restricted because of fear of retrenchment.

WOULD SENIORITY AFFECT DISCIPLINARY ACTIONS?

College and universities are noted for idiosyncratic professors, and during the past it was an aspect of college life which nearly everyone accepted. The absent-minded professor is a noted example. It might have been amusing if he didn't attend classes because he got his days mixed up. But with the impinging threat of retrenchment, not attending classes, not keeping office hours, and not attending to other duties will be looked at differently.

Once the seniority list becomes formalized, departmental members will begin to know either the rank order of those above them or at least that such-and-such has more seniority than they do. And realizing that a faculty member can be fired for incompetency, an awareness of lackadaisical behavior will be noticed more. And it's entirely possible that to vent their own fears about retrenchment, a movement could be initiated to get rid of the unproductive faculty member, thereby ameliorating the efficiency of the department and raising some department members a notch on the seniority list.

Looking at the good side, the aforementioned attitude could result in better self-policing of departments. All members would be meeting classes and holding regular office hours. On the other hand, it could produce negative results because members of a department would be looking for the wrong qualities--adverse qualities--in their peers. And such close scrutiny could plague department heads, deans, vice-presidents of academic affairs, and union leaders because they would

have to respond to complaints, some serious but many petty, instead of trying to offset the major factors which might be causing retrenchment. And any leader reluctant to heed minor violations, hoping to free himself to deal with significant problems, might become a candidate for a witchhunt.

Written faculty evaluations and observations, whether administered by the department heads or conducted by a departmental committee, would take on mannerisms of an Inquisitional tool. Full professors would fear the evaluation/observation reports of a colleague with less rank and seniority. And assistant professors would fear the evaluations of a colleague with a doctorate who had less seniority. Fear and dissension could abound; an attitude of working together to fight retrenchment might be hampered.

MERIT v. SENIORITY

The paramount issue opposing seniority as an impersonal means of retrenchment is that though it may be impersonal it may not be effective, primarily because it does not take into consideration meritorious teaching, exceptional research, or outstanding service. And if an institution is to survive and grow it must get rid of the deadwood and rebuild the school around dedicated and hardworking people. This statement is most often expressed by management people and--as one might guess--faculty members who consider themselves meritorious professors.

Faculty members belonging to unions, although not all of them, accept seniority over merit because it removes the question--Who will establish the criteria to judge whether a person has performed meritorious service? And while every faculty member might rather quickly admit that ideally it would be better if true meritorious service were honored over seniority, one would also notice that seemingly all faculty members consider themselves meritorious members of higher education.

Assuming that exceptions in a retrenchment implementation would be made to save meritorious faculty members, one prerequisite for such an exception would be evidence of merit. And just as in industry, quantitative evidence is easier to measure than qualitative performance. Consequently, the trend is already developing to accumulate "meritorious" statistics--namely classes with large numbers of students. Hoping to escape retrenchment, nationally some professors have and others will lower standards in order to increase their total number of students. But lowering standards for students makes education worth less on the job market, contributing uselessness of a college degree, and, therefore, indirectly causing less students to seek college educations.

Conversely, once the idea of an exemption for meritorious service is definitely scrapped at an institution, outstanding teachers may become disillusioned and cynical. And once again standards might be lowered, and the retrenchment problem could get slightly worse.

WOULD SENIORITY CREATE ACADEMIC GERRYMANDERING?

Increasingly, faculty members will seek ways to insure job security. The goal will be to get students. The curriculum committee, the arts and sciences council, the teachers education council, the graduate school council, and similar committees will become cold war battlegrounds for power positions. And new course offerings and curriculum changes that might increase class and departmental enrollments will be pushed by one department only to be fought by those standing to lose academic ground, and consequently, student enrollment. Thus a spirit of academic nationalism will increase building pockets of power but not co-ordinated, institutional growth.

Faculty members who are politically more astute will begin to look for ways to insure their indispensability, and not being able to find it in their

departments, may try other methods. New departments or subdivisions will appear, restricting the course offerings to minimize participation by others. Such acts could be called academic gerrymandering.

THE PROBLEMS RETRENCHMENT BY SENIORITY WOULD CREATE FOR MANAGEMENT

Retrenchment by seniority will ultimately mean chaos for management, causing first a myriad of grievances and later seemingly endless court cases. And once again, the major problems causing the institution to retrench will be put aside to deal with these reactions. The secondary problems may be dealt with, but the major problems will get worse.

During the numerous grievances that will be filed by faculty members, one complaint sure to be registered is the size of enrollments. Retrenched faculty members who have had steady enrollments of 20-25 students per class will empathically and vociferously contest retrenchment when other faculty members who have been teaching only 2 or 3 students per class are not retrenched. And no doubt, some alert politicians will use the low student-teacher ratio figures to catapult themselves into the limelight. Such publicity might help politicians, but it will only hurt higher education.

Next, although the CBA might force some faculty members to accept retrenchment on the basis of seniority, the minorities--namely blacks and women--might not. Using a precedent case which successfully challenged union seniority, i.e.--U.S. v. U.S. Steel Corporation (371 F. Supp 1045 [1973]), retrenchment will not be calmly accepted.

Should any minority member win a case against seniority, the management members at institutions which have retrenched faculty members can expect repercussions from non-minority faculty members who were retrenched. The potential trouble which could be caused by seniority retrenchment is seemingly unending.

THE EFFECTS OF SENIORITY ON FACULTY UNIONS

If unions can manage to have state legislators and/or private donors supply the increasing funds needed for their respective public and private institutions of higher learning, then unions will grow, having successfully increased job security. If, on the other hand, they cannot, they will be in trouble. Because lacking funds, schools will have to retrench to stay within their budgets.

And once the retrenchment process starts operating successfully, certain things will happen. The power of the faculty unions will be diminished. Only those faculty members definitely protected by the CBA's will be completely loyal. Those who will not benefit from collective bargaining protection will begin to question unions more and more.

But the significant problem, the one which could lead 30% or more of a faculty to petition for the decertification of its faculty union, deals with Frederick Herzberg's motivational theories. Briefly explained and applied to faculties in higher education, there are two groups:

1. Hygiene seekers
2. Motivational seekers

Hygiene seekers are faculty members who are primarily concerned with salary, status, working conditions, and job security. Motivational seekers are more concerned with achievement, recognition, the work itself, responsibility, and advancement.[1]

Naturally, such a division is conceptual; a person might be motivated by aspects pertaining to both of the previously cited categories--or seemingly neither set. However, to a degree, faculty members often could be classified

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[1]Thomas J. Sergiovanni and Fred D. Culver, The New School Executive: A Theory of Administration, (New York: Harper and Row, 1973), pp. 70-85.

as belonging primarily to one group or the other. And if those faculty members who are largely motivation seekers begin to notice that retrenchment by seniority does not take into consideration dedication but only length of service, a schism could develop with unions between this group and the group composed of hygiene seekers who would support seniority as a fair and equitable means of establishing job security.

Unions are said to be democratic coalitions. And while faculty unions do provide the machinery for all members to take part, many faculty union members do not and never will. A great portion of faculty members, even though they join unions, think of themselves as individuals--not rank-and-file followers. At best the condition is a very loose coalition.

How retrenchment might be implemented is a moot question many faculty members would enjoy informally debating. But if retrenchment actually were implemented at various schools across the nation, and on the basis of seniority--institutional or rank, many faculty union members low in seniority would begin to examine the worth to them of their unions, especially the issue of seniority v. dedication as a means of determining job security. The effect of using seniority for retrenchment could in many cases be harder on a faculty union than the respective management at a school.

CONCLUSION

That retrenchment will increasingly be used by college/university administrators to solve budgetary problems and to maximize institutional growth is an inevitable truth. That both administrators and faculty members must immediately become aware of the cataclysmic impact of retrenchment by seniority on higher education is a recognized fact. That they will is a frightening unknown.